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Mr. William S. Nail
Executive Director
Texas State Board of
Dental Examiners
411 West 13th Street, Suite 503
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Opinion No. JM-420

Re: Whether the Texas State Board
of Dental Examiners may allow the
delegation to dental hygienists of
smoothing roughened root surfaces

Dear Mr. Nail:

You ask for a clarification of certain amendments made by the
Sixty-ninth Legislature to the Dental Hygiene Act. V.T.C.S. art.
4551e.

The legislature amended the definition of "dental hygiene" to
read as follows:

The term 'dental hygiene,' and the practice
thereof as used in this Act shall mean and is
hereby defined as (a) the removal of accumulated
matter, tartar, deposits, accretions or stains,
except mottled enamel stains, from the natural and
restored surfaces of exposed human teeth, and
restorations therefor in the human mouth, the
smoothing of the roughened root surfaces, and the
polishing of said surfaces; (b) the making of
topical application of drugs to the surface
tissues of the human mouth and to the exposed
surface of human teeth; (c) the making of Dental
X-rays; and (d) such other services and procedures
as may be prescribed by the Texas State Board of
Dental Examiners in its Rules and Regulations;
provided, however, that such services, tasks, or
procedures defined as dental hygiene are performed
in compliance with Section 3 of this Article.
(Emphasis in original).

Acts 1985, 69th Leg., ch. 80, §1, at 320 (underlined language added by
Sixty-ninth Legislature) (to be codified as article 4551e, §1,
V.T.C.S.)

Section 3(a) of article 4551e, V.T.C.S., governs delegation of certain tasks to dental hygienists. This provision was also amended by the Sixty-ninth Legislature.

The Texas State Board of Dental Examiners may by rule permit a licensed dentist to delegate the performance of a service, task, or procedure to a licensed hygienist under the direct or general supervision of the dentist; provided, however, that the licensed hygienist shall not be permitted to diagnose a dental disease or ailment, prescribe any treatment or a regimen thereof, prescribe, order, or dispense medication, or perform any procedure which is irreversible or which involves the intentional cutting of the soft or hard tissue by any means. Nothing herein shall be construed to prevent a dentist from authorizing a dental hygienist employed by said dentist to instruct and educate a patient in good oral hygiene technique or to provide a medication as ordered by said dentist to said patient. This Act does not prohibit the incidental removal of cementum by a dental hygienist during the smoothing of roughened root surfaces.

Id. §3, at 321 (underlined language added by 69th Leg.) (to be codified as art. 4551e, §3(a), V.T.C.S.).

In regard to those amendments, you ask:

Assuming that 'the smoothing of the roughened root surfaces' is an irreversible procedure or 'involves the intentional cutting of the soft or hard tissue by any means,' may the dental board delegate to dental hygienists the permitted duty of smoothing of the roughened root surfaces in view of the language added by the Sixty-ninth Legislature to article 4551e, section 1.

The Sixty-ninth Legislature passed a bill the purposes of which were (1) to add "the smoothing of roughened root surfaces" to the list of tasks that make up the practice of dental hygiene and (2) to provide that the prohibitions on the delegation of certain kinds of tasks to dental hygienists are not intended to prohibit "the incidental removal of cementum by a dental hygienist during the smoothing of roughened root surfaces." Acts 1985, 69th Leg., ch. 80, at 320.

As a general rule, the board may not allow dentists to delegate to dental hygienists irreversible procedures or procedures involving the cutting of tissue. V.T.C.S. art. 4551e, §3(a). The legislative

history of House Bill No. 1229 informs us that the smoothing of roughened root surfaces, also known as "root planning," is a basic treatment for gum disease. Dental hygienists may perform the procedure in 43 other states, and the procedure is part of a hygienists' training. Bill Analysis to H.B. No. 1229, prepared for House Committee on Public Health, filed in Bill File to H.B. No. 1229, Legislative Reference Library. We assume that the smoothing of roughened root surfaces is, by its nature, irreversible. You do not inform us whether generally accepted methods of smoothing roughened root surfaces involve the cutting of tissue. Obviously, however, House Bill No. 1229 was intended to make clear that the board could permit dentists to delegate to hygienists the task of smoothing roughened root surfaces. The legislature obviously contemplated that hygienists would do so using the method or methods generally taught to them in their training. Thus, the board may permit a dentist to delegate to a hygienist working under the dentist's supervision the smoothing of roughened root surfaces by generally accepted methods.

S U M M A R Y

The Texas State Board of Dental Examiners may promulgate a rule allowing dentists to delegate to dental hygienists the smoothing of roughened root surfaces by generally accepted methods.

Very truly yours,



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